U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDITH A. WILLIAMS and U.S. POSTAL SERVICE,
POST OFFICE, Muncie, Ind.

Docket No. 96-1079; Submitted on the Record;
Issued March 2, 1998

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly denied reimbursement of appellant's medical expenses.

The Board has duly reviewed the case record and finds that this case is not in posture for decision.

On April 29, 1995 appellant, then a 39-year-old letter carrier, filed an occupational disease claim, alleging that she sustained an allergic reaction to fumes from paint remover being used at the employing establishment that day. In a statement dated October 18, 1995, she indicated that on the morning of April 29, 1995, as she was casing mail near the site of paint removal, her skin began itching, her throat started burning and she had difficulty breathing. After reporting to her supervisor, she went to her physician, who gave her a shot and prescribed medication. She returned to work and delivered her mail. She stated that she had never had this type reaction previously and indicated that she had submitted a Form CA-1, notice of traumatic injury and claim for compensation, on October 18, 1995.

An employing establishment memorandum dated September 2, 1995, indicates that a new ventilation and heating system was being installed on April 29, 1995. In an October 24, 1995 report, the employing establishment agreed with appellant's allegations, stating that she was exposed to a paint remover, which caused a strong smell. The employing establishment noted that from April 10 to April 19, 1995 open doors and windows were used to ventilate the building and, due to employee problems, fans at roof vents were added but problems continued and construction activities were curtailed until all employees were out of the building. The employing establishment also submitted a hazardous waste manifest, sample analysis and a material data sheet that described the chemical used, Peel Away I.

The relevant medical evidence includes an April 29, 1995 report, in which Dr. Michael Volpe, a family practitioner, diagnosed an allergic reaction and advised that

appellant could return to work. In an October 19, 1995 report, Dr. Volpe advised that on April 29, 1995, she was complaining of a generalized rash of a one-day duration and stated that she had a positive dermagraphism reaction to skin stroking, which indicated that she had been exposed to an allergenic substance, most likely of respiratory origin, "because multiple cases were reported from one source." On November 24, 1995 the Office provided Dr. Volpe with a statement of accepted facts, a copy of the accepted definition of causal relationship,[1] the material data sheet for Peel Away I, and a set of questions. The Office stated:

> "We reviewed your report dated October 10, 1995, which needs medical clarification as to the specific diagnosis due to the work exposure, as described in the statement of accepted facts."

Dr. Volpe provided an unsigned response that was received by the Office on December 18, 1995. In answer to what is meant by a positive dermagraphism reaction to skin stroking, the physician replied, "allergic reaction causing a positive skin test." He answered with a "Y" to the questions:

> (1) "In your medical opinion, would the work exposure to the Peel Away I product, specifically during the time from 6:30 a.m. to approximately 9:00 a.m. on April 29, 1995 be sufficient to cause an allergic reaction, with symptoms as described by [appellant]?
>
> (2) "Are you able to state with a reasonable medical certainty that the work exposure resulted in an allergic reaction to the product used to remove the lead paint?
>
> (3) "In your medical opinion, does this represent an allergic reaction to exposure during this one work shift on April 29, 1995?"

By decision dated January 9, 1996, the Office denied the claim on the grounds that the evidence of record failed to demonstrate a causal relationship between factors of employment and the claimed condition. In the attached memorandum, the Office noted that Dr. Volpe's response to the November 24, 1995 letter was insufficient as he had not submitted a signed, written report to indicate that he had considered all the information provided him. The Office further noted that Dr. Volpe's responses did not indicate that appellant's condition was occupational in nature which would require exposure over a longer period of time.

An employee seeking benefits under the Federal Employees' Compensation Act[2] has the burden of establishing, the essential elements of his or her claim[3] including the fact that the

[1] A copy of the definition of causal relationship is not in the record. The statement of accepted facts indicates that appellant was exposed to Peel Away I fumes on April 29, 1995 and described her allergic symptoms on that day.

[2] 5 U.S.C. §§ 8101-8193.

[3] *See Daniel R. Hickman*, 34 ECAB 1220 (1983); *see also* 20 C.F.R. § 10.110.

individual is an "employee of the United States," within the meaning of the Act,[4] that the claim was timely filed, within the applicable time limitation period of the Act,[5] that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.[6] These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[7]

Causal relationship is a medical issue,[8] and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence, which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship, between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician, must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship, between the diagnosed condition and the specific employment factors identified by the claimant.[9] Moreover, neither the mere fact that a disease nor condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[10] Nonetheless, when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation.[11]

The Office is required by section 8103 of the Act[12] to provide all medical care necessary as a result of an employment injury. In order to be entitled to reimbursement for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury. Proof of causal relation in a case such as this must include supporting rationalized medical evidence.[13]

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[4] *See James A. Lynch*, 32 ECAB 216 (1980); *see also* 5 U.S.C. § 8101(1).

[5] 5 U.S.C. § 8122.

[6] *See Melinda C. Epperly*, 45 ECAB 196 (1993).

[7] *See Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[8] *Mary J. Briggs*, 37 ECAB 578 (1986).

[9] *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams, supra* note 7.

[10] *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (182).

[11] *Larry Warner*, 43 ECAB 1027 (1992).

[12] 5 U.S.C. §§ 8101-8191.

[13] *See Debra S. King*, 44 ECAB 203 (1992); *Bertha L. Arnold*, 38 ECAB 282 (1986).

The terms "traumatic injury" and "occupational disease" are defined by regulation. Traumatic injury is defined as follows:

> "*Traumatic injury* means a wound or other condition of the body caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. The injury must be caused by a specific event or incident or series of events or incidents within a single workday or work shift."[14]

The term "occupational disease" is defined as follows:

> "*Occupational disease or illness* means a condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection; continued or repeated stress or strain; or exposure to hazardous elements such as, but not limited to, toxins, poisons, fumes, noise, particulates, or radiation, or other continued or repeated conditions or factors of the work environment."[15]

Initially, the Board finds that appellant did not establish that she sustained an occupational disease in the performance of duty. While the record supports a finding of exposure over a period longer than a single workday, her allergic reaction was limited to April 29, 1995. Her injury, therefore, falls within the regulatory definition of a traumatic injury.[16] The record, however, does establish that she was exposed to hazardous fumes on April 29, 1995 and she provided medical evidence from her treating physician, Dr. Volpe, indicating that she sustained an allergic reaction on that day. The Board finds that, while Dr. Volpe's reports are insufficient to establish entitlement, the fact that they contain deficiencies preventing appellant from discharging her burden does not mean that they may be completely disregarded by the Office. It merely means that their probative value is diminished.[17] The medical evidence indicates that, in answering the specific questions asked of him by the Office, Dr. Volpe opined that appellant's condition was employment related; his reports are, therefore, sufficient to require further development of the record. It is well established that proceedings under the Act[18] are not adversarial in nature,[19] and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence.[20] On remand the Office should request that Dr. Volpe provide a signed report on the issue of whether appellant's allergic reaction on April 29, 1995 was employment related.

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[14] 20 C.F.R. § 10.5(15).

[15] 20 C.F.R. § 10.5(16).

[16] *Supra* note 14.

[17] *See John J. Carlone*, 41 ECAB 354 (1989).

[18] 5 U.S.C. § 8101 *et seq.*

[19] *See, e.g., Walter A. Fundinger, Jr.*, 37 ECAB 200 (1985).

[20] *See Dorothy L. Sidwell*, 36 ECAB 699 (1985).

After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

The decision of the Office of Workers' Compensation Programs dated January 9, 1996 is hereby vacated and the case is remanded to the Office for proceedings consistent with this opinion.

Dated, Washington, D.C.
March 2, 1998

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member